



INTEGRITY COMMISSIONER REPORT FOR ACTION

Office of the Integrity Commissioner - 2018 Operating Budget

Date: November 27, 2017
To: Budget Committee
From: Valerie Jepson, Integrity Commissioner
Wards: All
Reference:

SUMMARY

This report details information related to the 2018 Operating Budget for the Office of the Integrity Commissioner (the "Office" or the "OIC") and recommends a full-year 2018 budget of \$866.9 thousand gross and net for consideration by the Budget Committee. This includes base budget pressures of \$5 thousand and enhancements of \$355.2 thousand.

RECOMMENDATIONS

The Integrity Commissioner recommends that:

Budget Committee recommend to Executive Committee that:

1. City Council approve the 2018 operating budget of \$866.9 thousand gross and net for the Office of the Integrity Commissioner.

FINANCIAL IMPACT

Approval of the Office of the Integrity Commissioner's 2018 operating budget request will result in an inclusion of \$866.9 thousand in the 2018 annual budget of the City of Toronto.

DECISION HISTORY

As provided for by the *City of Toronto Act, 2006* and Chapter 3 of the Toronto Municipal Code, the Integrity Commissioner is independent of City Council and City administration. This report is therefore submitted directly to Budget Committee for consideration and recommendation to Council. (Reference: *City of Toronto Act, 2006*,

s. 158(2), s. 159(1); Chapter 3 of the Toronto Municipal Code, ss. 3-10; Budget Protocol for Accountability Officers.)

COMMENTS

1. Overview

The Integrity Commissioner renews her recommendation to increase the budget for the OIC. The OIC is chronically challenged to conclude investigations into formal code of conduct complaints in a timely manner and has a limited ability to respond to high volumes, complex cases or litigation. The need for adequate resources is now acute because the OIC will soon be responsible for receiving and investigating allegations that the *Municipal Conflict of Interest Act* has been contravened.

The Integrity Commissioner recommends necessary budget enhancements to:

- establish an appropriate budget for external legal and investigation support; and,
- establish a temporary Training and Education Officer to develop resources to ensure that all members of Council and the 1,000 members of Toronto's local boards are properly trained about their obligations under the Code of Conduct and the *Municipal Conflict of Interest Act*.

The total cost of these enhancements for the 2018 budget is \$355.2 thousand, which represents 0.003 % of the 2017 Council-approved, Tax-Supported Gross Operating Budget.

If City Council fails to provide the recommended funding, the length of time taken to conclude cases will continue to grow and the ability of the OIC to respond to adequately to high volumes, complex cases and the new duties will be threatened.

2. Work of the Office

Current Duties of the Integrity Commissioner

At present, the Integrity Commissioner carries out the following duties:

- provides confidential advice to 45 members of Council and more than 1,000 appointees to Local Boards (Restricted Definition);
- provides education and outreach to Council and more than 100 Local Boards (Restricted Definition) about the applicable code of conduct;
- provides comprehensive interpretation bulletins and policy reports to Council and local Boards on matters of integrity and ethics;
- responds to inquiries and requests from members of the public, other similar offices and City staff; and,
- conducts investigations when there are allegations of breach of the Code of Conduct.

New Duties of the Integrity Commissioner

As a result of recent changes to the *City of Toronto Act, 2006* and the *Municipal Conflict of Interest Act*, the Commissioner will soon carry out the following duties:

- provide advice to members of Council and local boards regarding the application of the *Municipal Conflict of Interest Act*;
- carry out investigations into alleged contraventions of the *Municipal Conflict of Interest Act*; and,
- bring applications to Court regarding possible contraventions of the *Municipal Conflict of Interest Act*.

These changes will come into force on March 2019 and as a result, the Integrity Commissioner will be required to dedicate significant resources and time to prepare for the new duties to inform members of Council and local boards about the changes, to make recommendations for necessary changes to City bylaws and policies and to begin development of internal processes and competencies to respond to the new duties.

Output of the Office

The volume of work of the OIC remains high. For 2017, it is projected that the Integrity Commissioner will:

- respond to more than 150 requests for advice from members of Council;
- respond to more than 40 requests for advice from members of Local Boards;
- receive and deal with 22 formal complaints about members of Council or local boards;
- issue 16 reports concluding 24 complaints;
- assist to resolve approximately 3 informal complaints;
- engage in policy review, consultation and interpretation bulletin development in relation to several issues (e.g. Arena Board members, Bill 68 repercussions, councillor involvement in fundraising, review of local board code of conduct); and,
- provide more than 25 training or outreach sessions to local boards and other interested groups.

The average time it takes to complete investigation files is 271 days. (This is an average number since the OIC has tracked this statistic starting on January 1, 2015.) To date in 2017, the Office responded to requests for advice from members of Council within two days or less 95% of the time; and, requests for advice from members of local boards within two days or less 86% of the time.

3. Current resources

The Integrity Commissioner is supported by two staff (an Intake and Office Assistant and an Integrity Officer – Investigations and Advice) and a modest (approximately \$20,000) non-salary budget. The Commissioner, staff and other resources of the Office are used to engage in:

- the full range of activities associated with complex investigations, such as document and record review, issuing summonses, interviewing multiple witnesses, provision of conduct money, corporate searches (with associated fees), land title searches (with

associated fees), analysis, open source internet research, use of external investigative supports (with associated fees and costs), responding to legal challenges to procedural steps and report writing;

- the full range of activities associated with advice giving including gathering information, research, analysis, legal research (can involve external legal advice), drafting; and,
- the full range of activities related to policy or interpretation bulletin development including consultation (with members of Council, City staff, external groups), analysis, policy research and drafting in relation to several matters.

4. Enhancement Request

A suitable budget for external legal and investigation support

The base budget of the OIC is insufficient to enable the Commissioner to complete the current investigation case load in a timely manner and will leave the Office unable to respond adequately to new duties arising because of recent changes in provincial legislation.

It is not possible to accurately predict the number and complexity of the formal complaints that are filed with the OIC each year; nor is it possible to accurately predict the number of new complaints that will arise due to new responsibilities to receive and deal with *Municipal Conflict of Interest Act* complaints. However, we do know that the average length of time to complete cases is not meeting timelines established by the Complaint Protocol and certainly will not meet required statutory time periods for the *Municipal Conflict of Interest Act* complaints.

The Commissioner therefore recommends the establishment of a budget of \$190 thousand for external legal and investigative support that would enable the OIC to respond on an as-needed basis to high case volumes and complex cases. The establishment of a stable, contingency-based budget to respond to an unpredictable work load will enable the Office to more accurately gauge the need for permanent resources. The need for a suitable budget for external legal and investigative support is acute.

A suitable budget for external legal services is required to enable the Office to fulfill, in particular, two of the new duties arising from recent provincial legislation changes. First, the Integrity Commissioner will now have a statutory duty to provide advice about the application of the *Municipal Conflict of Interest Act*. Providing such advice may require legal advice for unique situations presented by the 45 members of Council and approximately 1,000 members of local boards. Second, under the new legislation, the OIC may be required to bring *Municipal Conflict of Interest Act* applications to Court and in these instances a significant component of the recommended external budget would be consumed.

Finally, establishing a suitable budget for external services is necessary to protect the independence of the Office enabling it to respond appropriately within its own budget to high volumes, complex cases and litigation needs.

Temporary Training and Education Outreach Officer

The new provincial legislation entrenches and strengthens the outreach function of the Integrity Commissioner. At present, the Integrity Commissioner carries out this duty personally, thereby reducing time available for advice giving and investigations. With dedicated resources, this important function could be carried out in a more strategic manner, using technology more effectively to develop standing resources, available online to accommodate schedules, with current content to reflect the changes to provincial legislation.

The Commissioner therefore recommends the establishment of a temporary Training and Education Officer to develop a foundation of resources tailored to members of Council and board members and which provides clear and easy to use information about the high standards of conduct expected them.

The establishment of this position will also help with improved investigations response capacity because it will enable the Commissioner to spend more time on investigations and advice giving. The request is temporary until such time as the long term needs can be assessed and evidence is sufficient to make the case for permanent resources.

The 2018 budget request is \$165.2k comprising of \$86.2 for a temporary Stakeholder Training and Education Officer position for 9 months; and \$79.0 thousand for office furniture, computer, and office configuration, renovation and/or moving cost that may be required to accommodate this additional resource.

5. Summary

The Office of the Integrity Commissioner 2018 budget request of \$866.9 thousand net, includes: base budget pressures of \$5 thousand and enhancements of \$355.2 thousand.

Base budget pressures of \$5 thousand net, which includes:

Budgetary provisions for progression pay increases, cost of living adjustments (COLA), benefit adjustments, salary budget to actual adjustments and economic factor adjustments for non-payroll items.

New/enhancement request of \$355.2 thousand, which includes:

A budget for external legal and investigative support costs of \$190.0 thousand.

Part-year salary and benefit for 1.0 full-time temporary Outreach Coordinator position of \$70.0 thousand plus costs to relocate office or renovate to enable new position (or explore working from home arrangement).

These result in an increase of \$360 thousand or 71.1% from the 2017 Approved Operating Budget of \$507 thousand net.

CONTACT

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SIGNATURE

Valerie Jepson, Integrity Commissioner

ATTACHMENTS

Attachment 1: 2018 Operating Budget - Accountability Officers